



House of Representatives

General Assembly

File No. 209

February Session, 2000

Substitute House Bill No. 5060

House of Representatives, March 23, 2000

The Committee on Judiciary reported through REP. LAWLOR of the 99th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

An Act Concerning Criminal Violations Of Environmental Laws.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 22a-131a of the general statutes is repealed and
2 the following is substituted in lieu thereof:

3 (a) Any person who (1) wilfully fails to prepare a manifest required
4 in accordance with the provisions of [the Resource Conservation and
5 Recovery Act of 1976 (42 USC 6901 et seq.)] the State Hazardous Waste
6 Program promulgated under subsection (c) of section 22a-449 or any
7 regulation adopted pursuant to said subsection, (2) knowingly makes
8 any false material statement or representation on any application,
9 label, manifest, record, report, permit or other document required in
10 accordance with the provisions of [said act] subsection (c) of section
11 22a-449 or said regulations, including any such statement or
12 representation for used oil that is regulated under said subsection, or
13 (3) wilfully fails to maintain or knowingly destroys, alters or conceals
14 any record required to be maintained [under regulations pursuant to

15 said act] in accordance with the provisions of subsection (c) of section
16 22a-449 or said regulations, including any record for used oil that is
17 regulated under said subsection, shall be fined not more than [twenty-
18 five] fifty thousand dollars for each day of such violation or
19 imprisoned not more than [one year] two years or both. A [second]
20 subsequent conviction for any such violation shall carry a fine of not
21 more than fifty thousand dollars per day or imprisonment for not
22 more than [two] five years or both.

23 (b) Any person who knowingly transports or causes to be
24 transported any hazardous waste to a facility which does not have a
25 permit required under [the Resource Conservation and Recovery Act
26 of 1976] subsection (c) of section 22a-449 or any regulation adopted
27 pursuant to said subsection, or who knowingly treats, stores or
28 disposes of any hazardous wastes without a permit required under
29 said [act] subsection or said regulations, or who knowingly violates
30 any material condition or requirement of such permit or an order
31 issued by the commissioner regarding treatment, storage or disposal of
32 hazardous waste, shall be fined not more than fifty thousand dollars
33 for each day of violation or imprisoned not more than [two] five years
34 or both. A subsequent conviction for any such violation shall carry a
35 fine of not more than one hundred thousand dollars per day or
36 imprisonment for not more than ten years or both.

37 (c) Any person who knowingly stores, treats, disposes, recycles,
38 transports or causes to be transported or otherwise handles any used
39 oil that is regulated under subsection (c) of section 22a-449 but not
40 identified or listed as hazardous waste in violation of any condition or
41 requirement of a permit under said subsection or under any regulation
42 adopted pursuant to said subsection shall be fined not more than fifty
43 thousand dollars for each day of violation or imprisoned not more
44 than two years or both. A subsequent conviction for any such violation
45 shall carry a fine of not more than one hundred thousand dollars per
46 day or imprisonment for not more than five years or both.

47 [(c)] (d) Any person, who in the commission of a violation for which
48 a penalty would be imposed under subsection (a), [or] (b) or (c) of this
49 section, who knowingly places another by such violation in imminent
50 danger of death or serious bodily injury, shall be fined not more than
51 two hundred fifty thousand dollars or imprisoned not more than [two]
52 fifteen years or both, [except that where such violation indicates an
53 extreme indifference to human life, the fine shall be not more than two
54 hundred fifty thousand dollars or imprisonment for five years or both,]
55 and when the violator is an organization, the fine shall be not more
56 than one million dollars. This subsection shall not be construed as a
57 limitation on the amount of fines that may be imposed in accordance
58 with subsection (a), [or] (b) or (c) of this section. As used in this section,
59 "organization" means any legal entity, other than the state or any of its
60 political subdivisions, established for any purpose, and includes a
61 corporation, company, association, firm, partnership, joint stock
62 company, foundation, institution, trust, society, union or any other
63 association of persons.

64 [(d)] (e) Any fine imposed pursuant to this section shall be
65 deposited in the General Fund.

66 Sec. 2. Section 22a-226a of the general statutes is repealed and the
67 following is substituted in lieu thereof:

68 Any person who knowingly violates any provision of section 22a-
69 252, section 22a-208a, section 22a-208c, any permit issued under said
70 section 22a-208a, subsection (c) or (d) of section 22a-250, any regulation
71 adopted under section 22a-209 or 22a-231, or any order issued
72 pursuant to section 22a-225 shall be fined not more than twenty-five
73 thousand dollars per day for each day of violation or imprisoned not
74 more than [one year] two years or both. A subsequent conviction for
75 any such violation shall carry a fine of not more than fifty thousand
76 dollars per day for each day of violation or imprisonment for not more
77 than [two] five years or both.

78 Sec. 3. Section 22a-438 of the general statutes is repealed and the
79 following is substituted in lieu thereof:

80 (a) Any person who or municipality which violates any provision of
81 this chapter, or section 22a-6 or 22a-7 shall be assessed a civil penalty
82 not to exceed twenty-five thousand dollars, to be fixed by the court, for
83 each offense. Each violation shall be a separate and distinct offense
84 and, in case of a continuing violation, each day's continuance thereof
85 shall be deemed to be a separate and distinct offense. The Attorney
86 General, upon complaint of the commissioner, shall institute a civil
87 action in the superior court for the judicial district of Hartford to
88 recover such penalty. In determining the amount of any penalty
89 assessed under this subsection, the court may consider the nature,
90 circumstances, extent and gravity of the violation, the person or
91 municipality's prior history of violations, the economic benefit
92 resulting to the person or municipality from the violation, and such
93 other factors deemed appropriate by the court. The court shall consider
94 the status of a person or municipality as a persistent violator. The
95 provisions of this section concerning a continuing violation shall not
96 apply to a person or municipality during the time when a hearing on
97 the order pursuant to section 22a-436 or an appeal pursuant to section
98 22a-437 is pending.

99 (b) Any person who or municipality which [wilfully or] with
100 criminal negligence violates any provision of this chapter, or section
101 22a-6 or 22a-7 shall be fined not more than twenty-five thousand
102 dollars per day for each day of violation or be imprisoned not more
103 than one year or both. A subsequent conviction for any such violation
104 shall carry a fine of not more than fifty thousand dollars per day for
105 each day of violation or imprisonment for not more than two years or
106 both. For the purposes of this subsection, person includes any
107 responsible corporate officer.

108 (c) Any person who or municipality which knowingly violates any

109 provision of this chapter, or section 22a-6 or 22a-7 shall be fined not
110 more than fifty thousand dollars per day for each day of violation or be
111 imprisoned not more than three years or both. A subsequent
112 conviction for any such violation shall carry a fine of not more than
113 one hundred thousand dollars per day for each day of violation or
114 imprisonment for not more than ten years or both. For the purposes of
115 this subsection, person includes any responsible corporate officer.

116 [(c)] (d) Any person who or municipality which knowingly makes
117 any false statement, representation, or certification in any application,
118 record, report, plan, or other document filed or required to be
119 maintained under this chapter, or section 22a-6 or 22a-7 or who
120 falsifies, tampers with, or knowingly renders inaccurate any
121 monitoring device or method required to be maintained under this
122 chapter, or section 22a-6 or 22a-7 shall upon conviction be fined not
123 more than [ten] twenty-five thousand dollars for each violation or
124 imprisoned not more than [six months] two years for each violation or
125 both.

126 Sec. 4. Section 22a-467 of the general statutes is repealed and the
127 following is substituted in lieu thereof:

128 No person or municipality shall dispose of the compound PCB or
129 any item, product or material containing the compound PCB except in
130 accordance with a permit issued pursuant to section 22a-208a, 22a-430
131 or 22a-454. Notwithstanding the provisions of this section, a person or
132 municipality may dispose of the compound PCB, or the item, product
133 or material containing the compound PCB, in accordance with a
134 written approval by the commissioner if such disposal (1) results in
135 destruction of the compound PCB; or (2) is not inconsistent with the
136 provisions of Part 761 of Title 40 of the Code of Federal Regulations.
137 The commissioner may include in any such approval such conditions
138 as he deems appropriate to protect the environment and human
139 health. For purposes of this section, "dispose" means to incinerate or

140 treat the compound PCB or any item, product or material containing
141 the compound PCB, or to discharge, deposit, inject, dump or place the
142 compound PCB or any item, product or material containing the
143 compound PCB into or on land or water so that such compound, item,
144 product or material enters the environment, is emitted into the air, or is
145 discharged into any waters, including groundwaters.

Statement of Legislative Commissioners:

In section 4, the definition for "dispose" was slightly changed for grammatical accuracy.

ENV Committee Vote: Yea 19 Nay 0 JFS C/R JUD

JUD Committee Vote: Yea 38 Nay 0 JFS

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: Potential Revenue Gain

Affected Agencies: Department of Environmental Protection,
Various Criminal Justice Agencies

Municipal Impact: See Explanation Below

Explanation**State Impact:**

Increasing and expanding the criminal penalties for various state laws regarding hazardous waste is anticipated to minimally increase state revenue. However, the revenue increase could be significant depending on the number of future offenses and the upper limits of the fines imposed. In 1999 there were 53 offenses and \$1,820 in revenue was collected and in 1998 there were 50 offenses and \$3,002 was collected.

A minimal increase in the administrative workload of the criminal justice system and the Department of Environmental Protection is anticipated from these changes. This increase can be absorbed within existing agency resources.

Municipal Impact:

There would be an increase in costs to municipalities to the extent

that there are municipalities convicted of an offense.

OLR Bill Analysis**sHB 5060****AN ACT CONCERNING CRIMINAL VIOLATIONS OF ENVIRONMENTAL LAWS.****SUMMARY:**

This bill makes several changes to the enforcement laws regarding hazardous waste record keeping, handling, transportation, storage, and disposal, and it increases the penalties for violating them. It expands the state hazardous waste program to cover used oil and establishes corresponding penalties for used oil violations.

It increases, from one to two years, the maximum prison term for violating the laws related to asbestos disposal and solid waste handling and from two to five years, the maximum term for subsequent violations.

It increases the maximum penalties for knowing (i.e., willful) violations of the state's water pollution control laws, environmental protection cease and desist orders, and activities authorized under the Department of Environmental Protection's (DEP's) general authority. It also increases the penalty for knowingly making false statements, representations, or certifications in documents required in connection with such laws, orders, and activities.

It defines "dispose" for purposes of polychlorinated byphenols (PCB) disposal permits and authorization and makes minor and technical changes.

EFFECTIVE DATE: October 1, 2000

STATE HAZARDOUS WASTE PROGRAM

The bill specifies that the hazardous waste penalty provisions apply to Connecticut's hazardous waste program and regulations rather than to the federal Resource Conservation and Recovery Act generally. The

state hazardous waste program incorporates the federal law and contains some additional and more stringent requirements.

Hazardous Waste Program Penalties

The bill also increases the maximum penalties for violations of the hazardous waste laws. It makes penalties that currently apply to second violations apply to all subsequent violations.

The bill increases the maximum penalty for knowingly violating the hazardous waste manifest and record keeping laws and the prohibition against making false representations on hazardous waste related documents. It increases the maximum fine from \$25,000 to \$50,000 per day and maximum imprisonment from one to two years. The bill also increases the maximum prison term for subsequent violations from two years to five, while leaving the fine at \$50,000 per day.

It increases, from two years to five, the maximum prison term for hazardous waste storage, treatment, disposal, and transportation violations, while leaving the fine at \$50,000 per day. It also establishes a \$100,000 per day maximum fine and 10-year prison term, for subsequent violations. It specifies that the penalties apply to violations of DEP storage, treatment, or disposal orders as well.

It increases, from two years to 15, the maximum prison term for hazardous waste violations that place others in imminent danger of bodily injury or death. It eliminates the possible five-year prison term for such violations that show an extreme indifference to human life.

Used Oil Storage, Treatment, Disposal, and Handling Violations

The bill establishes a maximum \$50,000 per day fine and up to two years in prison for knowing violations of hazardous waste laws and permits, regarding used oil regulated under the program but not listed as a hazardous waste. Anyone who knowingly stores, treats, disposes, recycles, transports or causes to be transported, or otherwise handles used oil in violation of the program or a hazardous waste permit is subject to the penalty. Under the bill, subsequent violations are subject to a maximum \$100,000 per day fine and up to five years in prison.

In addition, the bill includes statements and records related to used oil in the existing hazardous waste penalties for making (1) false statements or (2) destroying, altering, concealing or failing to maintain records. It makes such violations subject to the same hazardous waste penalties described above.

By law, used oil is a regulated waste in Connecticut and may be classified as a hazardous waste if contaminated with other substances.

Increased Penalty for Water Pollution Control Laws and Other DEP Orders and Requirements

The bill increases the maximum penalty for knowing violations of the state's water pollution laws, DEP cease and desist orders, and activities authorized under DEP's general authority. Under current law, the maximum penalty for knowing violations is the same as the penalty for criminally negligent violations.

The bill increases the maximum fine for first time offenders from \$25,000 per day to \$50,000 per day and the maximum prison term from one year to three. It increases the maximum fine for subsequent offenses from \$50,000 per day to \$100,000 per day and the maximum prison term for two years to 10.

The bill also increases, from \$10,000 per day to \$25,000 per day and six months imprisonment to two years, the maximum penalty for knowingly making false statements, representations, or certifications for documents required to be filed or maintained in connection with the laws, orders, and activities.

Definition of Dispose

By law, no one may dispose of PCBs or any material containing PCBs without a DEP permit or DEP written approval. The bill defines "dispose" to include incinerate or treat PCBs or PCB-containing material, or to discharge, deposit, inject, dump, or place such compound or material so that it is emitted into the air or discharged into ground or surface water, or otherwise enters the environment.

COMMITTEE ACTION

Environment Committee

Joint Favorable Substitute Change of Reference

Yea 19 Nay 0

Judiciary Committee

Joint Favorable Substitute

Yea 38 Nay 0